

DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

October 15, 1992

ALL-COUNTY LETTER NO. 92-89

TO: COUNTY WELFARE DIRECTORS
AFDC COORDINATORS
GAIN COORDINATORSReason for this Transmittal

- ☐ State Law Change
- ☐ Federal Law Change
- ☐ Court Order or Settlement Agreement
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by SDSS

SUBJECT: CRARY V. McMAHON COURT ORDER AND WINDLEY V. McMAHON CONSENT
DECREE--QUESTIONS AND ANSWERS

REFERENCE: ALL COUNTY LETTER NO.s 92-51 AND 92-70

The purpose of this letter is to provide answers to questions posed by Greater Avenues for Independence (GAIN) county staff regarding the implementation of the Crary Court Order and the Windley Consent Decree.

1. If the amount of the corrective underpayment is less than \$1.00, must the county pay the class member?

ANSWER: Yes. There is no minimum amount a GAIN participant may receive as payment for a corrective underpayment from a county.

In accordance with the Manual of Policy and Procedures (MPP) 44-315.432, there is a minimum amount an assistance unit may receive when calculating an AFDC grant payment. However, this regulation does not apply to the payment of corrective underpayments or retroactive benefits.

2. If the county GAIN office paid a person a flat rate to drive a GAIN participant to and from his/her GAIN activities, is the GAIN participant a class member?

ANSWER: No. To be a class member, the GAIN participant had to have driven a vehicle to and from his/her GAIN activities.

3. If a class member is deceased, must a county pay?

ANSWER: If the person who files a claim for the deceased class member is in the assistance unit, the county shall pay the assistance unit the corrective underpayment. If members of the assistance unit are too young or unable to file on behalf of the deceased class member, a person who is not in the assistance unit may file in their behalf. An assistance unit is defined in MPP 80-301(a)(8).

4. Is there a county share of cost even though the transportation limits were imposed before 1991?

ANSWER: Yes. Since the payment to the person for transportation costs is made in a period where the county has a share in GAIN program costs, the county does have a share in the payment. The Administrative Expense Claim is on a cash basis and the state and county funding ratios set by the state Legislature in effect at the time a payment is made are to be used.

5. If a GAIN participant submits a completed Crary Claim Form [TEMP GAIN 66 (7/92)] or Windley Review Request Form [TEMP GAIN 77 (7/92)] to a county but checks "NO" to one or more of the qualifying questions, must a county send to the person a NOA denying the claim?

ANSWER: Yes. If a person submits a TEMP GAIN 66 or TEMP GAIN 77 but indicates that they are not a class member, the county shall issue a Crary denial NOA M50-021B or Windley denial NOA M50-022N.

6. Does the same apply if the person submits an Informing Card (Crary TEMP GAIN 64 or Windley TEMP GAIN 63) and the person checks the boxes that indicate that he is not a class member?

ANSWER: No. The county does not need to issue a denial NOA to the individual. However, if the TEMP GAIN 64 or TEMP GAIN 63 is checked to indicate that the person is a class member and the person provides an address, treat the TEMP GAIN 64 or TEMP GAIN 63 as a written request for a form and mail the participant a TEMP GAIN 66 or TEMP GAIN 77.

7. What does a county do when it receives a TEMP GAIN 66 from a GAIN participant, but the county is not one of the Crary affected counties?

ANSWER: Since a person who was or is in GAIN in a non-affected county cannot be a class member, issue the Crary NOA M50-021B denying the claim. Check the "Other" box and state "county not affected by Crary Court Order."

The non-affected county shall complete the Statistical Reporting Form (GEN 1172) specifying how many claims were denied. For instructions on how to record allowable Crary administrative activities, the non-affected county should refer to County Fiscal Letter 91/93-3.

8. A GAIN participant never submitted a claim for transportation expenses for the mileage he drove a vehicle to and from his GAIN activities. However, the GAIN participant submits a TEMP GAIN 66 to an affected county. Is the GAIN participant a Crary class member?

ANSWER: No. The county shall issue the Crary denial NOA M50-021B checking the "Other" box. Next to the box, state that because the GAIN participant did not submit a claim for reimbursement of his transportation expenses, his payment was never capped.

However, in accordance with the Welfare and Institution Code Section 11004(k), there is no statute of limitation for filing a claim for reimbursement for supportive services. If the person and/or county has the necessary verification of expenses, the GAIN participant shall be paid the transportation expenses owed by the county. The county shall not impose any type of transportation cap when reimbursing the GAIN participant. Counties shall follow MPP 42-750.4 when determining GAIN participants' need for transportation supportive services.

On the Statistical Reporting Form (GEN 1172), the county shall count the claim as a denial but shall not count the money paid as a Crary retroactive benefit.

9. If a GAIN participant files a claim under Crary and then later files a claim under Windley for the same action, does a county owe the GAIN participant a corrective underpayment in both lawsuits?

ANSWER: No. If a claim is filed and processed under Crary, the county shall issue the Windley denial NOA M50-022N. Check the "Other" box and explain to the person that the corrective underpayment was paid under Crary. The county shall attach a copy of the Crary NOA M50-021A to the Windley M50-022N.

10. If a county did not give a GAIN participant a timely notice, does the county owe the participant supportive services for the 10 days that should have been provided prior to the action being put into effect?

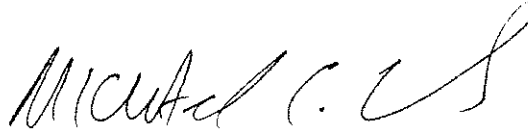
ANSWER: No. However, if the county's action was wrong and the GAIN participant can verify or self-certify that he/she had a valid supportive service expense, the county shall issue the Windley NOA M50-022A and the corrective underpayment.

The essence of the Windley v. McMahon lawsuit is that GAIN participants were not provided adequate notice when actions were taken and they were not told of their right to a hearing. When GAIN participants request to have their case files reviewed under Windley, the county shall first determine if an adequate notice was provided to the participant. Secondly, the county determines whether the actions taken were appropriate; whether the county owes a GAIN participant a corrective underpayment; or whether the participant owes the county an overpayment. The county will then provide the notice which should have been issued during the retroactive period, or a notice which reflects the outcome of the case review (corrective underpayment or overpayment). The participant can then file for a hearing if they still disagree with the action taken in the past or if they disagree with the county's new action.

11. Under the Windley lawsuit, does the county review the whole case file or only the dates listed on the Review Request Form (TEMP GAIN 77)?

ANSWER: If a GAIN participant lists specific dates or certain actions on the TEMP GAIN 77, counties are to review the case file for those actions. However, if there are no actions or dates listed on the TEMP GAIN 77, counties are to review the full case file to determine if there were adequate notices provided to the GAIN participant for the actions taken. See Section 50-022.551 in the Implementation Guidelines for Windley.

If you have any questions or need any assistance regarding the retroactive provisions of the Crary Court Order or Windley Consent Decree, please contact Ms. Pat Loader at (916) 654-1770 or (CALNET) 8-464-1770.



MICHAEL C. GENEST
Deputy Director

Enclosure

cc: CWDA